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national farmers union

In Union is Strength

National Farmers Union

Submission

to the

House of Commons
Standing Committee on Transport

on the subject of the

"Freedom to Move"
White Paper on
Deregulation of the Transportation Industry

presented at

Winnipeg, Manitoba November 21, 1985

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INTRODUCTION:

The National Farmers Union welcomes this opportunity to express its views on the "Freedom to Move" white paper prepared by the Ministry of Transport.

As you may know, the NFU is a voluntary direct membership organization of farm families. It is chartered under an Act of Parliament which received final assent on June 11, 1970. Our constitution provides for the involvement of our membership through a democratic structure which enables direct member participation in policy development and control from the local to the national levels of the organization.

Many farmers across Canada are undergoing severe financial times for various reasons. High interest rates, rising input costs, depressed world prices for many farm products and adverse weather conditions are some of the difficult contributing factors confronting the farm community.

As major consumers of industrial goods and producers of agricultural products, transportation is absolutely vital to the success of farming operations. Farmers cannot survive without it - and the cost of transportation can make or break the success of many farm operations.

The importance of transportation to the farm sector is underscored by the fact that a major review of the Western Grain Transportation Act is being undertaken by the Grain Transportation

Agency at the very same time this Committee is reviewing the National Transportation Act.

We have some difficulty with the W.G.T.A. undergoing a policy review by the bureaucracy established under that Act when, in our view, it is more properly the function of this Committee. As a consequence, you, as parliamentarians, may be less aware of public attitude and background which underlie forthcoming amendments which will be proposed to the W.G.T.A.

The fact of the two reviews occurring simultaneously by different review committees within a very short period of time provides the impression of great haste being accorded the realignment of transportation policy by the Minister of Transport. This in turn denies the opportunity for proper comprehensive analysis of national transportation policy issues by this committee as well as public interest groups.

There are linkages between provisions in the W.G.T.A. and the N.T.A. which need to be recognized and understood in the development of national transportation policy. They must not be overlooked.

THE IMPLICATIONS OF DEREGULATION:

The motivating factors leading to the current transportation policy review have been prompted by changes to the legal framework governing transport policies in the United States. These changes, as represented by The Staggers Act, 1980, have substantially reduced government regulation, leaving, in most cases, to market forces, the responsibility for securing services and rates in line with public interest.

The United States is tremendously important to Canada's external trade, accounting for approximately 75% of the market for Canadian exports. The alignment of Canadian transport polices to Canadian interests within the North American context, are basically dictated by changes in U.S. transportation policy.

The transportation policy objectives outlined in the white

paper, "Freedom to Move", propose the revising of Section 3 of the National Transportation Act so as to promote:

. actively both intramodal and intermodal competition;

. greater efficiency and the lowering of total unit costs for all transportation services;

. the reduction of the burdensome intervention of government in the marketplace by minimizing the extent and complexity of regulation imposed on carriers, shippers, and other users; and

. a regulatory process that is more open, flexible and accessible to all Canadians.

As in all policies which eliminate or reduce regulation where regulation has previously been necessary, there are bound to be both winners and losers.

Some obvious winners in the deregulation of transportation in Canada will be the largest players in the game, Canadian Pacific Ltd., Canadian National and some major shippers of freight within Canada and the United States.

The predatory climate that will be created for the transportation industry is likely to result in numerous mergers, acquisitions and possible bankruptcies of weaker players in the game, particularly within the trucking industry.

Freight volume in total is unlikely to increase beyond what will occur directly as a result of economic growth. Total freight handled in 1983, reports the Canadian Transport Commission*, was 649 million tonnes, 14 per cent higher than in 1973. This tonnage included all unduplicated tonnage carried by rail, road and air, as well as tonnage handled at Canadian ports by the water industry.

The distribution between the various modes of tonnage handled has shown no major changes over the decade, notes C.T.C. Both water and rail modes were dominant with 38.3 per cent and 38.5 per cent respectively. For-hire truck carriers accounted for 23.1 per cent while air transport's share remained at 0.1 per cent. (Figure 1)

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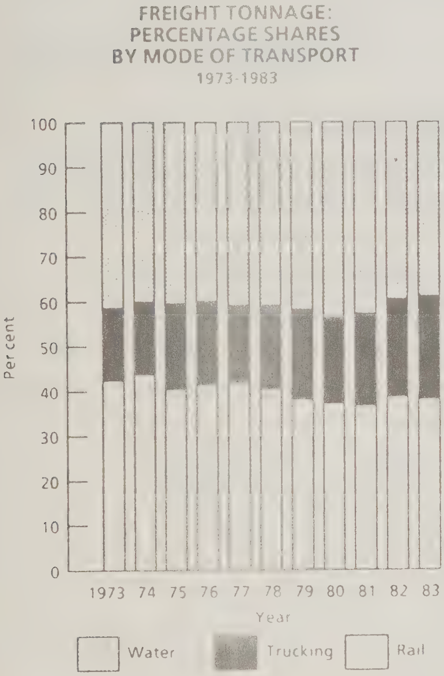
* CTC Research Branch "Transport Review" Trends and Selected Issues, 1985

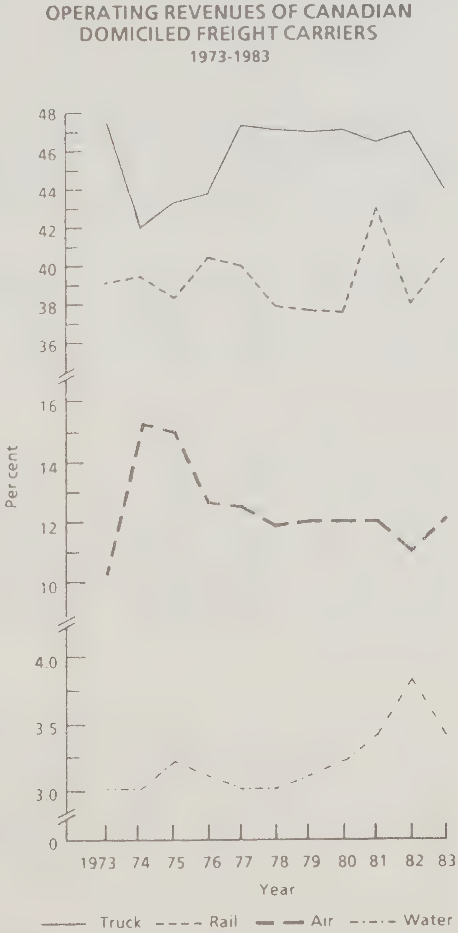
The yearly modal distribution of total freight operating revenues is illustrated in Figure 2. In 1983, for-hire motor carriers accounted for 44 per cent of the total operating revenues of Canadian freight carriers and railways accounted for 40.4 per cent. Water accounted for 12 per cent while air carriers held a 3.4 per cent share.

Figure 1:



Source: CTC Research Branch
Transport Review - 1985

Figure 2:



Will deregulation increase overall freight tonnage now hauled by carriers in this country? We believe not beyond what is generated by growth in the general economy and/or through export demand.

Can deregulation be expected to greatly shift the freight tonnage percentages or operating revenues now shared between the varying modes of transport?

We believe it, too, will be marginal if, as the white paper states, the "NTA and related acts governing each mode have emphasized intermodal competition" - which suggests the scope for such competition already operates from a narrow base.

THE ROLE OF "COMPETITION":

We have, within the Canadian transportation industry, a "David and Goliath" situation with respect to the comparative size and areas of influence among the various transportation interests.

Both CN Rail and CP Ltd. are highly integrated transportation corporations whose scope of operations extend across international boundaries. It is a major reason why no great shift in intermodal freight shares is likely to occur.

CP Rail has about 15,000 miles of rail line throughout Canada and its parent company, C.P. Ltd., owns 55.7 per cent of the stock of Soo Line Railroad Company in the U.S. which conducts operations over 4,447 miles of rail line in seven states. C.P. Ltd. also owns 100 per cent of the stock of the Toronto, Hamilton and Buffalo Railway Company (1982 statistics)*.

Canadian Pacific Express and Transport Ltd. was reported, in 1982, to have 194 locations across Canada and the eastern United States operating about 1,000 trucks, 3,000 highway trailers, 400 city trailers, 500 city tractors and 500 highway tractors.

In addition, the CP conglomerate interests are widely engaged in bulk shipping and container operations.

In a full page advertisement printed in the Toronto Globe & Mail newspaper of September 14, 1984, CN Rail announced in its headline:

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* U.S. Securities and Exchange Commission 10th Annual Report of Canadian Pacific Ltd., 1982

"We've joined forces to deliver the longest rail network in the history of North America."

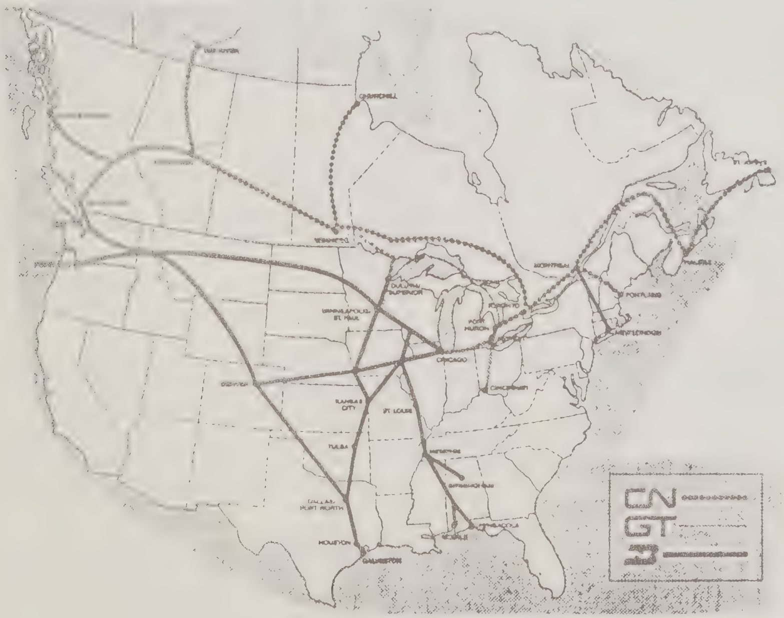
It additionally explained:

"Starting January 2, 1985, Burlington Northern, CN Rail and Grand Trunk will provide the advantages of single rail line service between Canada and the U.S. This North American network will cover 63,000 miles - twice as much as the next longest rail service.

"We connect the U.S. with Canada through the key gateway of Chicago and Duluth. Our ties will bind Prince Rupert to Mobile, St. John's to Galveston and Detroit to Seattle with run-through freight service to all points in between.

"This provides the opportunity for faster shipping. There will be less need for switching rail cars, allowing our rates to become more competitive. We'll also offer more direct routing to and from thousands of points throughout Canada and the U.S. The result is our service will be more convenient, more reliable and less costly. We think you'll find us a tough combination to beat."

The map below outlines the new network.



It would be difficult to pretend that the CN announcement concerning its new arrangements had not been a long time in the making. Thus when in late 1984, (according to the white paper), the CTC was asked to undertake hearings regarding the effects of U.S. rail deregulation on the transborder business of Canadian railroads, we submit the inevitable recommendation to align our transportation

policies with those of the U.S. on the issue of deregulation and confidential contracts was little more than a formality. The CTC recommendation was "after the fact" of the full page Globe & Mail advertisement announcing this new marriage of convenience between CN and U.S. rail carriers

CN Enterprises has also been able to claim since 1983 that it owns the nation's largest trucking company, "Route Canada", through the consolidation of the 3,000 pieces of highway equipment of its 13 trucking companies.

Against this background of our two extremely large integrated transportation interests, the role of competition under deregulation cannot help but hasten amalgamations and mergers of smaller players within the transportation industry. Competition can destroy profits. Reduced rates used as a device to hasten consolidation or bankruptcy of the weaker players may result in only temporary gains to shippers and could eventually result in less competition and higher costs.

Other shippers most likely to benefit from deregulation are those who are large and national or international in their operations or those located in areas of the country which now offers the most competitive climate.

Farmers feel vulnerable to the prospects of deregulation. As captive shippers in much of the country, there is little likelihood of them becoming the direct benefactors of lower rates on their farm products through competition.

The concepts of confidential contracts, provision for rebates and the charging of non-compensatory rates in areas where a multiplicity of transportation options exist, all point to higher costs and/or the reduction of service to captive shippers.

That has been the experience of U.S. farmers since the introduction of the Staggers Act - a decrease in service and no decrease in rates.

"Market forces have diminished because of railroad mergers, the cancellation of joint rates and through routes, cancellation of reciprocal switching as well as rail line abandonments" according to Russell J. Eichman, Vice President in charge of corporate transportation for Harvest States Grain Co-operative. (See "Impact of the Staggers Rail Act" - Appendix A).

The Harvest States Grain Co-operative, because of changes in railway grain hauling rate structures, have closed their Duluth terminal and now export all their grain from one Mississippi River terminal.

According to U.S. farmers, the Staggers Act has not resulted in a competitive clamour for their business accompanied by lower rates. Are we to seriously believe that our experience will be any different?

One is led to question whether the two major railways will relinquish protection they now have from U.S. competition in the movement of industrial goods such as farm machinery from eastern Canada to the prairies. The degree of protection that exists is summarized by the following excerpt from a recent C.T.C. research document*:

"Canadian transport carriers are protected against competition from U.S. carriers moving cargo from Canadian origins to Canadian destinations by a 30% customs duty on most tariffs. Removal of this tariff would certainly present the Canadian railways with competition -- probably competition they could not match. The U.S. route from Southern Ontario to the Canadian West is shorter and easier than the Canadian alternative around the Great Lakes.

"There are strong reasons for retaining the current protection. The shorter cheaper American route is not new; it was available before the CPR was even planned. The decision made at that time was for a national system. To turn back to the U.S. route now would mean an unnecessary loss of employment and increased balance of payments deficit. In addition, because the traffic that would be siphoned off through the U.S. contributes to system constant cost, the traffic still moving by the Canadian railways would have to bear a heavier constant cost burden."

We see no evidence in the white paper that consumers will be relieved of higher freight costs on affected goods resulting from the

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* "Competition and Regulation in the Railway Freight Industry" published by Research Branch, Canadian Transport Committee, Report No. 1982/09E, October, 1982.

30 per cent customs duty referred to in the statement.

The white paper recognizes the merit of joint-track usage or shared running rights, however, the ordering of such rationalization is limited to "those unusual instances where government intervention is warranted in the national interest", and "only in exceptional circumstances where significant efficiencies and cost savings would be certain to result."

OTHER ISSUES:

Currently a major area of concern and a serious discrepancy in the grain freight structure is the absence of export grain rates from CPR origins to the Port of Prince Rupert.

Grain rates to Vancouver and Prince Rupert are equalized for grain from CN origins. Rail mileages, CN-Edmonton-Prince Rupert and CN-Edmonton-Vancouver, are considered as equal for grain rate-making purposes (i.e., 765 miles). Rail mileages to Vancouver via CN-Edmonton and via CP-Calgary also are considered equal for grain rate-making purposes (i.e., 765 miles).

In certain years, grain for Churchill has been drawn from as far away as CNR lines in northern Alberta and southern Manitoba, while grain on CP lines in proximity to Churchill continued to be delivered to Thunder Bay and Vancouver.

This absurd situation occurred even when CP Rail claimed to be losing millions of dollars annually in hauling grain at the Crow rate. Although temporary interchange agreements in the past have been found to be advantageous, why are the railway companies avoiding them? Is it "competition"?

The lack of published rates from all stations to all ports precludes the transport of export grain to the most beneficial cost/market-oriented port. The C.W.B. has stated it is essential there be unrestricted access to all four western Canadian ports. This is necessary if the Board and other exporters of Canadian grain are to attain the flexibility necessary to sell Canadian grain effectively in highly competitive foreign markekts.

Will deregulation change these patterns of corporate behavour?

In our view, the total integration and rationalization of the two major railways in this country is past due - in the national interest.

Farmers find it ironic that "non-compensatory rates will be allowed over an adjustment period of five years after which there will be no restriction on such rates except anticombines legislation". The railways based much of their case for abrogation of the Crow rates on the fact that they were "non-compensatory" even while they were collecting generous federal subsidies on grain hauled from grain dependent branch lines.

We believe captive shippers under deregulation will have a difficult time in negotiating suitable rate structures with the railways. The formula the CTC can apply for the determination of a "probable range" for a "fixed rate" is extremely generous to the railway companies based, as it is, on a carload of 30,000 pounds plus 150% of variable cost.

Provisions for branch rail line abandonment are also to be eased. Should amendments to the W.G.T.A. provide basic changes such as in the method of payment of the Crow benefit, confidential contracts and rebates for future grain movement from centralized delivery points, we predict the rapid escalation in branch rail line abandonment applications.

The concept of short-line rail companies would at best have limited practical application since they would be vulnerable to the full competitive forces of trucking in bleeding off grain volume from farms for direct movement to centralized delivery points rather than to branch line delivery points.

We have expressed concern to the W.G.T.A. Review Committee over the request of the Minister of Transport to review the term "export" in the W.G.T.A. which currently is:

"in respect of grain, means shipment by vessel within the meaning of the 'Canada Shipping Act' to any destination outside Canada and shipment by any other mode of transport to the United States for use of the grain in that country and not for shipment out of that country."

By the simple act of deleting the word "not" from the definition, the path would be opened to funnel Canadian export grain through the U.S. interior waterway for shipment from gulf ports and through the Panama Canal. It will be tailor-made for a deregulated rail industry which already has extensive U.S. rail links.

The possibilities of this occurring surfaced recently at a government organized conference on Seaway use, October 28-29, held in Quebec City. Traffic volumes through the Seaway have been declining in recent years. The threatened southward movement is directed toward keeping Seaway tolls down. A CTC research vice-president reportedly told the Conference that between two and three million tonnes of Canadian grain could be competitively exported through the Mississippi River rather than through the Seaway. Increasing pressure to use American rail lines and water routes to export Canadian farm products is expected in future.

The white paper proposes to vest a great deal of power in the hands of very few players in the transportation industry. That power will be utilized to maximize profit through the manipulation and restructuring of rates to achieve that objective. Power will be directed toward speedy rationalization of the system in such a way as to best achieve the aims and objectives of the major power brokers.

At this point the strategy appears to be pointing toward closer alignment and integration of our transportation system and needs with the U.S. system.

Where will this lead in terms of our own future priorities and development?

CONCLUSION:

The outcomes of deliberations of this committee and the W.G.T.A. Review Committee can be predicted to have profound and far-

reaching effects upon all citizens of Canada.

Deregulation proposals as outlined in the white paper would vest a great deal of power in the hands of relatively few major players in the transportation industry. They will practically hold a free rein to pursue whatever course in role setting they believe will maximize their profit opportunities. They will be the big winners.

We believe farmers will be among the losers in this game. They will not proportionately benefit from "intramodal and intermodal competition" in the transport of their products. Their unit costs for all transportation services have already been guaranteed to increase simply as a result of the loss of statutory rates on grain. Deregulation is likely to create more negative than positive results for captive shippers such as farmers.

Deregulation could well lead towards underdevelopment of the transportation infrastructure in regions of low population and traffic density if economic decision making is primarily left up to the industry. In some circumstances our sovereignty could be affected.

The adoption of deregulation in the transportation industry raises a number of important questions that have not been researched.

We recommend comprehensive impact studies on the possible long range effects of transportation deregulation upon our economic and social interests need to be undertaken before deregulation is unleashed on the nation.

We are not the United States. We are entering into uncharted waters and governments must, in the public interest, keep a firm hand on the wheel to know where the Canadian people are being led.

All of Which is Respectfully
Submitted by:

NATIONAL FARMERS UNION

APPENDIX A

Impact Of The Staggers Rail Act

Shippers Express Concerns About Lack Of Rail Competition

by Vince Becker

Back in 1980 when the Staggers Rail Act was passed, the intent of Congress was to replace government regulation with market competition. Since that time, however, competition between railroads has faded.

"Market forces have diminished because of railroad mergers, the cancellation of joint rates and through routes, cancellation of reciprocal switching, as well as rail line abandonments," says Russell J. Eichman, vice president in charge of corporate transportation for Harvest States. "Consequently, there seems to be a need for some fine tuning or adjustment of the Staggers Act," Eichman says.

As a result of shipper complaints about lack of rail competition and mounting pressure in Congress to amend the Act, the Interstate Commerce Commission (ICC) began formal proceedings last fall to assess the impact of the Act. The rationale behind holding these meetings was to offer a third-party neutral zone where the railroads and shippers could get together under ICC supervision to iron out some of the problems, thus avoiding the need for legislation, according to Eichman. The ICC plans to complete the proceedings this spring. Just what happens then is uncertain, because the differences between shippers and the railroads, likely, will still exist.

Subjects discussed at these meetings included the following:

Reciprocal Switching. Does elimination of reciprocal switching restrict the markets in which a shipper can sell?

Revenue Adequacy. Railroads are currently guaranteed a 15.7 percent return on investment. If an individual railroad does not generate this amount of return, a shipper will have a difficult time attacking any rate or rate increase as being unreasonable.

Market Dominance Criteria. Do existing laws make it impossible for a captive shipper to prove that it is truly captive?

Maximum Reasonable Rate Guidelines. Do the guidelines place an unreasonable burden upon a shipper to prove that rates are unreasonable?

Joint Rate Cancellations. Do such cancellations limit the market options of a shipper? If not, are its transportation costs increased because of lack of rail competition?

Railroad contracts are being discussed in a separate ICC investigation which will determine how much of a railroad contract should be made public.

Grass Roots Input

In an effort to obtain input on some of these subjects from affiliated cooperative elevators across Harvest States country, Eichman sent a questionnaire to elevator managers last fall. "The two primary areas we were concerned with were competitive access and contracts," says Eichman. The issue of competitive access was broken down into three areas: joint rates and routes; reciprocal switching; and trackage rights. "We wanted to find out if any affiliate lost a market because it lost a joint rate or route, or because reciprocal switching was cancelled," explains Eichman.

Results of the survey showed that competitive access is a real issue concerning elevator managers. For example, managers indicated by a two-to-one margin that lack of a joint rate and route prevents them from reaching a market.

"Some of the elevators located on the Soo Line in North Dakota that used to be able to sell corn to the Pacific Northwest said they can't now because the Soo Line, which has to make a rate with three other railroads, can't begin to compete with Burlington Northern (BN) which has a single-line rate," says Eichman. "The survey also showed that some of the affiliates in south central Washington lost business into the feedlots because the shippers are on the BN but the feedlots are on the Union Pacific and there is no joint rate to allow them to get into that market."

Cancellation of reciprocal switching rights generally is not a problem, according to the survey results. However, some

of the affiliates indicated reciprocal switching rights would aid in penetrating new markets. Granting of trackage rights was also seen as a way for some affiliates to become competitive in new markets. Trackage rights allow one railroad to operate over the trackage of another for a reasonable distance.

In general, the responding elevator managers said contracts are not necessary. Some did think, however, that a contract is necessary in special situations. For example, if a shipper invests a half-million dollars to build a unit train-loading station, he deserves some assurances regarding rail service, rates and car supply.

The majority of those responding said specific allowances and rates should be disclosed in the public portion of rail contracts. Finally, by a margin of 15 to 1, managers said details of contract terms covering agricultural commodities should not be confidential, but instead should be published in tariff form.

Legislative Action

Last September, in testimony before the Senate Judiciary Committee, the National Grain and Feed Association (NGFA) called for legislative action to restore competition in rail transportation service. The NGFA contends the ICC has failed to enforce the pro-competitive aspects of the Staggers Rail Act. The committee conducted the hearing on a bill supported by the NGFA that would prohibit rail carriers from closing gateways or routes to destinations if the intent is to monopolize traffic from origins served by the carrier.

Rail carriers' restrictions on freedom of movement of grain traffic are imposed in three different ways, according to the NGFA:

□By closing joint rates and routes with competing carriers.

□By discouraging traffic interchange between carriers through the cancellation of switching agreements or the setting of exorbitant charges for switching service.

□By discouraging the use of shipper-owned or leased rail cars, or by not fairly compensating shippers for the use of such cars.

The NGFA told the committee a particularly heavy economic burden is placed on the grain industry because most grain shippers are reliant upon a single carrier for rail service. A 1983 NGFA survey of grain transportation showed that 94.3 percent of the country elevators and 63.5 percent of the terminal elevators having access to rail service are served by only one carrier.

Also last September, a group of agricultural and industrial shippers known as the Procompetitive Rail Steering Committee (PCRSC) called upon Congress to clarify certain "procompetitive" sections of the Staggers Act. The PCRSC, which is composed of members of the National Industrial Transportation League, asked for legislation to preserve joint rates and routes, reciprocal switching and access to tracks near terminals so competition can be maintained among carriers.

Other groups have voiced concern about the interpretation of the Staggers Act. Consumers United for Rail Equity (CURE), a group of public utilities, coal companies and other businesses, wants legislative clarification of the Act. Railroads Against Monopoly (RAM), a group of smaller railroads, wants legislative action to reverse the adverse affect the Staggers Act has had on their business. RAM's position is understandable. Studies show that the nation's Class I railroads have been reduced from 98 operating over 345,000 miles of track in 1964 to 21 Class I railroads operating 272,000 miles of trackage today.

Eichman doesn't hold out much hope that Congress will do anything to resolve shippers' concerns this year. "I don't think members of Congress are convinced that legislation will solve the problems," he says. "They want to see more evidence that people have been hurt by the Act and to give the market a chance to take care of the problems."

Most of the groups putting pressure on Congress are making a stand for some fine-tuning of the Staggers Act, not for its abolishment. "I can't think of one group that's anti-Staggers," says Eichman. "Basically, the Staggers Act is good. Not all parts of it are good and not all interpretations of it benefit railroads and shippers equitably, but the Act's concept is good."

Harvest States is taking advantage of any opportunity it has to protect the marketing options of its members by getting input from the country and commenting on the problems as well as the benefits brought by the Staggers Act. "We want to make sure we have input in any legislation that may be enacted in the future," concludes Eichman.